

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-218403 **DATE:** June 11, 1985
MATTER OF: Cushman Electronics, Inc.

DIGEST:

Rejection of multiple-award schedule proposal is proper where the items offered therein exceed the government's need because whole systems are offered instead of the specific system parts called for by the solicitation.

Cushman Electronics, Inc. (Cushman), protests the General Services Administration (GSA) rejection of its offer under request for proposals (RFP) No. FGS-X7-36444-N for a multiple award schedule (MAS) contract for Federal Supply Classification (FSC) Group 66, Part II, section "H," Electrical/Electronic Components and Test Equipment (hereafter RFP-H). Cushman's proposal was rejected because it did not offer the exact kind of items called for under RFP-H's special item numbers (SINs).

Cushman protests the rejection because: (1) it has previously held contracts under Group 66, section "H," for the same items which GSA now rejects; and (2) one of its direct competitors holds a GSA contract for similar items.

We deny the protest.

MAS contracting simplifies purchasing and reduces the cost of acquiring certain frequently used items which are readily available in the commercial marketplace by enabling federal agencies to place purchase orders against MAS contracts directly with commercial firms under blanket terms and conditions previously negotiated by GSA. RFP-H provides:

"MULTIPLE AWARDS: The Government may make multiple awards for the articles or services listed herein to those responsible offerors whose offers, conforming to the request for proposal, will be most advantageous to the Government, taking into consideration the

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multiplicity and complexity of equipment of various manufacturers and the differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, and other pertinent factors." (Emphasis supplied.)

GSA reports that, although FSC Group 66 contains approximately 1,000 approved item names, not all of the items named are solicited for MAS contracts. The items selected for solicitation are assigned SINS. GSA further reports that while Cushman's products fall within Group 66, they do not fall within any of the SINS listed in RFP-H. Specifically, where RFP-H calls for a particular SIN, such as a sweep oscillator/generator, Cushman's proposal offers an entire test system, namely, a computer-controller radio system analyzer which automatically generates signals, monitors performance, and tests the characteristics of transceivers. GSA does not deny that the Cushman test system may include the required SIN (as a component), but GSA contends that it solicited for the SIN to meet government needs for parts to use both in fabricating new systems and as replacements in existing systems.

Cushman's systems obviously do not meet the government's need as that need is set forth in the RFP. It is a basic tenet of government procurement law that an offer must meet the government's needs if it is to be accepted. Since Cushman's offer does not meet those needs, GSA's rejection of Cushman's nonconforming offer was proper.

Concerning Cushman's contention that GSA has previously awarded Cushman contracts under Group 66, section "H," for the same items that are now rejected, GSA admits that Cushman held various section "H," MAS contracts from June 1981 through May 1984 for SINS 66-11 and 66-15. However, GSA also advises that SINS 66-11 and 66-15 were transferred from FSC Group 66, Part II, section "H," to FSC Group 66, Part II, section "J," in December 1983 (effective June 1, 1984), and that GSA notified Cushman of the transfer on two separate occasions by sending Cushman solicitations to which Cushman did not respond.

GSA notes that Cushman has offered its model CE-15 under RFP No. FGS-X1-36416-N for section "J" items (hereafter RFP-J) and that GSA is now considering Cushman's proposal. Cushman, in its comments on the agency report, contends that one of its competitors was awarded a MAS section "J" contract on June 8, 1984, for items which perform nearly identical functions and are used in exactly the same way as the products which Cushman offered under section "H." Cushman argues that, if its products belong under section "J," it should be allowed to amend its RFP-J offer to include the items which it initially offered under RFP-H, so that it, as well as its competitor, will be eligible for award for those items. We find no merit in this position since, even if Cushman's products fall within the SINS of RFP-J, RFP-J has closed. An amendment such as Cushman proposes would be improper because it would constitute a late modification to its proposal. See MacGregor Athletic Products, B-211452, Sept. 23, 1983, 83-2 C.P.D. ¶ 366.

for Seymour Efron
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General Counsel